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No. 83-1397

IN THE

Supreme Court of the United States

October Term, 1983

THE MINNEAPOLIS POLICE RELIEF ASSOCIATION; THE MINNEAPOLIS FIRE DEPARTMENT RELIEF ASSOCIATION; THE MINNESOTA FEDERATION OF TEACHERS, AFL-CIO; THE MINNESOTA POLICE AND PEACE OFFICERS ASSOCIATION; THE MINNEAPOLIS EMPLOYEES RETIREMENT BOARD; MINNESOTA PROFESSIONAL FIREFIGHTERS ASSOCIATION, AFL-CIO; DULUTH POLICE PENSION ASSOCIATION; DULUTH POLICE UNION, AFL-CIO; POLICE OFFICERS FEDERATION OF MINNEAPOLIS; MINNESOTA FIREFIGHTERS JOINT PENSION COUNCIL; MINNEAPOLIS RETIRED POLICE ASSOCIATION; ROCHESTER POLICE RELIEF ASSOCIATION; and MINNESOTA POLICE PENSION COUNCIL,

Appellants,

v.

BARBARA L. SUNDQUIST, Commissioner of Employee Relations; ALLEN RUDELL, Commissioner of Finance; and the STATE OF MINNESOTA,

Appellees,

and

AFSCME COUNCILS 6, 14, 65 and 96, AFL-CIO; MINNESOTA EDUCATION ASSOCIATION; MINNESOTA TEAMSTERS PUBLIC AND LAW ENFORCEMENT EMPLOYEES UNION, LOCAL NO. 320; ST. PAUL POLICE AND FIREFIGHTERS RELIEF ASSOCIATION; and MINNESOTA ASSOCIATION OF PROFESSIONAL EMPLOYEES,

Appellees,

and

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 49,

Appellee/Amicus Curiae.

ON APPEAL FROM THE SUPREME COURT OF MINNESOTA

MOTION TO DISMISS OF APPELLEES SUNDQUIST, RUDELL AND STATE OF MINNESOTA

(Counsel of Record printed on inside front cover)

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QUESTIONS PRESENTED

1. Did the Minnesota Supreme Court err in determining that Minnesota law creates no contract or property right to the maintenance of fixed public employee pension contribution levels, and that the challenged statute, therefore, did not violate the Contract Clause, U.S. Const., Art. I, § 10, cl. 1, nor deprive public employees of property without due process under the fourteenth amendment to the United States Constitution?

2. Was it a legitimate purpose of the challenged statute to correct the State's grave fiscal condition without creating undue economic displacement and was the Act's requirement that public employees temporarily make added contributions to their respective pension funds rationally related to that purpose?

PARTIES TO THIS PROCEEDING

Barbara L. Sundquist and Allen Rudell were succeeded as Commissioner of Employee Relations and Commissioner of Finance, respectively, prior to the commencement of this appeal by Nina Rothchild (Employee Relations) and Gordon M. Donhowe (Finance). Although the Commissioners are automatically substituted as parties pursuant to Rule 40.3 of this Court, this motion retains caption designations of the Jurisdictional Statement to avoid confusion.

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Appellees,

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INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 49,

Appellee/Amicus Curiae.

ON APPEAL FROM THE SUPREME COURT OF MINNESOTA

MOTION TO DISMISS

Appellees Sundquist, Rudell and the State of Minnesota, pursuant to Rule 16 of the Supreme Court of the United States, move to dismiss the appeal herein on the grounds that the questions presented are so insubstantial as not to need further argument.

CONSTITUTIONAL PROVISIONS AND STATUTES

The applicable constitutional and statutory provisions are set forth by appellants. (Jur. Stat. 3; A-111 to A-119.)[1]

The statutory provisions under constitutional attack were amended while the case was pending before the Minnesota Supreme Court. Act of June 8, 1983, ch. 301, §§ 224-27, 1983 Minn. Laws 1558, 1704-13. The amendments are set forth by appellees in the appendix to this motion (State A-1 to State A-9).[2]

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[1] Throughout this motion, the abbreviation "Jur. Stat." means the appellants' Jurisdictional Statement; the abbreviation "A-" is a reference to the Appendix to the Jurisdictional Statement.

[2] Throughout this motion, the abbreviation "State A-" is a reference to the Appendix to this Motion to Dismiss of Appellees Sundquist, Rudell and the State of Minnesota.

STATEMENT OF THE CASE

This is an appeal from the decision of the Minnesota Supreme Court upholding the constitutionality of certain provisions of the Act of Dec. 13, 1982, ch. 1, 1982 Minn. Laws 3d Spec. Sess. 5 (hereinafter "the Act"). The challenged provisions required almost all public employees to contribute an additional two percent of salary to their respective pension funds during 1983. The financial crisis precipitating enactment of the challenged provisions is accurately presented in the opinion by the Minnesota Supreme Court, *AFSCME Councils 6, 14, 65 and 96, AFL-CIO v. Sundquist*, 338 N.W.2d 560, 564-65 (Minn. 1983) (hereinafter "*AFSCME*") (A-13 to A-14) and the Memorandum of the district court (A-69 to A-70). The Act contains numerous provisions increasing taxes, reducing expenditures, deferring some employer contributions to public employee pension funds and diverting some employer contributions to the State's general fund. Appellants' claims, however, are limited to provisions of the Act requiring public employees to temporarily pay an additional two percent of salary into their respective pension funds during 1983, specifically Act of Dec. 13, 1982, ch. 1, art. 2, § 2, subd. 1(v)(1-8). *See AFSCME*, 338 N.W.2d at 566 n. 6 (A-16).

The Minnesota Supreme Court rejected appellants' contract clause, substantive due process and equal protection claims that are raised here on appeal. The court determined that appellants were unable to establish the existence of a contract, either express or implied-in-fact, or enforceable rights created by the doctrine of promissory estoppel. *AFSCME*, 338 N.W.2d at 566-67 (A-17 - A-18). Because the court found no contractual right to a fixed level of employee pension contributions, it was not necessary to determine

whether the Act unconstitutionally impaired such a contract. In addressing appellants' substantive due process claims, the court found no constitutionally protected property interest because the employees possessed no contractual right to guaranteed levels of pension contributions and suffered no long-term reduction in disposable income. *Id.* at 573-75 (A-33 - A-36). In rejecting appellants' equal protection claim, the court found that the stated purpose of the Act—to correct the state's grave fiscal condition without creating undue economic displacement—was a legitimate state purpose. Further, the court found that it was reasonable for the lawmakers to believe that temporarily increasing public employee pension contributions would prevent potential damage to the fiscal integrity of public pension funds and help maintain the credit rating of the state and local units of government. The court also determined that the additional employee pension contribution was not a discriminatory tax. *Id.* at 569-73 (A-24 - A-33).

The Minnesota Legislature substantially amended the challenged Act while this matter was pending in the Minnesota Supreme Court. The amendments reduced the temporary period of increased employee pension fund contributions from twelve months of 1983 to the first six months of 1983. Act of June 8, 1983, ch. 301, § 224, 1983 Minn. Laws 1558, 1704-12. They also provided for reimbursement to any public employee retiring between January 1, 1983 to June 30, 1985, of an amount equal to the increased contribution paid, with interest, at the time of his first annuity payment. *Id.* at § 225, 1983 Minn. Laws at 1712-13. In addition, in certain cases, a similar reimbursement was provided for at the time of withdrawal from the retirement program. *Id.* at § 226, 1983 Minn. Laws at 1713. The increased contributions challenged here have not been required since the last full pay period before July 1, 1983.

ARGUMENT

THE DECISION OF THE MINNESOTA SUPREME COURT IS PLAINLY CORRECT AND THE APPELLANTS' ARGUMENT TO THE CONTRARY FAILS TO RAISE A SUBSTANTIAL FEDERAL QUESTION.

I. THE MINNESOTA SUPREME COURT'S DECISION THAT, UNDER MINNESOTA LAW, APPELLANTS HAD NO CONTRACT OR PROPERTY RIGHT TO THE MAINTENANCE OF THE PREEXISTING LEVEL OF EMPLOYEE PENSION CONTRIBUTIONS RAISES NO SUBSTANTIAL FEDERAL QUESTION.

Appellants argue that the temporary two percent increase in public employee pension contributions mandated by the challenged state law was an unconstitutional impairment of contract and a deprivation of property without due process of law. Fundamental to appellants' arguments regarding both alleged constitutional violations is the contention that public employees in Minnesota have an enforceable contractual right "to existing levels of [employee] pension contribution in the absence . . . of any truly legitimate reason for increasing such levels." Jur. Stat. 10. The Minnesota Supreme Court rejected that argument based on an analysis of state pension statutes, the state legislature's intent, and the court's previous decisions in the pension area. The appeal of this issue presents no substantial federal question that warrants further review.[8]

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[8] Because the property interest on which appellants' due process claim is premised is the same right to existing levels of employee pension contributions at issue in their Contract Clause claim, it is unnecessary to separately address the due process issue. Since there is no legally enforceable right for Contract Clause purposes, there is no property right protected by the Due Process Clause.

Admittedly, in the context of a challenge under the Contract Clause, this Court is not bound by the state court's decision on the issue of the existence of a contract. *State of Indiana ex rel. Anderson v. Brand*, 303 U.S. 95, 100 (1938). Nonetheless, because the issue is one primarily of state law, the views of the state's highest court are to be accorded "respectful consideration and great weight." *Id.* Moreover, the purpose of this Court's independent review of what is normally a state law issue is not to create a federal common law of contract, but solely to insure "that the constitutional mandate may not become a dead letter . . . ." *Id.* Accordingly, in assessing whether a contract exists, this Court looks not to federal law or the law of other states, but at the statutes of the state whose law is challenged and the decisions of its courts. *Id.* It follows that if the decision of the state court that a contract has not been created is consistent with existing state law and is not a deviation intended to evade the mandate of the Contract Clause, there is no basis for a contrary result from this Court.

That is certainly the case here. The state supreme court's decision that Minnesota has accorded public employees no contractual right to the maintenance of preexisting pension contribution levels has a solid basis in state law. Conspicuously absent from appellants' Jurisdictional Statement is reference to any legal source of the contract right allegedly impaired. As the state supreme court correctly noted: "It cannot be disputed that the record contains no evidence of an express contract designating rates at which public employees must contribute to their pension funds." *AFSCME*, 338 N.W.2d at 567 (A-18). The claim of an implied contract right is similarly groundless. The court below identified a

number of statutory provisions which declare the state legislature's intent not to create contractual rights in the terms of the various pension plans, thereby specifically negating the implied contract claim. For example, in Minn. Stat. § 353.38 (1982) the Minnesota Legislature addressed the rights of members of the Public Employees Retirement Association (PERA) by providing that:

> Nothing done under the terms of this chapter and acts amendatory thereof shall create or give any contract rights to any person . . . .

Similar limiting provisos exist with regard to the other major retirement funds. Minn. Stat. § 354.07, subd. 8 (1982) (teachers' retirement); Minn. Stat. § 352.022 (1982) (state employees' retirement and others).

The decision of the state court below is also consistent with its prior decisions construing entitlement to public pension benefits, notwithstanding appellants' broad assertion that the Minnesota Supreme Court "has previously recognized that the terms and conditions of a public pension plan give rise to contractual rights for the benefit of the plan's contributing members." Jur. Stat. 8. *Christensen v. Minneapolis Municipal Employees Retirement Board*, 331 N.W.2d 740 (Minn. 1983), and *Sylvestre v. State*, 298 Minn. 142, 214 N.W.2d 658 (1973), the two cases cited by appellants, provide little support for this generalization and none whatsoever for the contractual entitlement at issue here. Indeed, until recent years public pensions in Minnesota, as in many other states, were treated as gratuities conferred by the sovereign to which employees had no legal entitlement. *Christensen*, 331 N.W.2d at 745-46.

In *Sylvestre*, the earlier of the two cases relied on by appellants, the court addressed an attempt to reduce the benefits to be paid under a retirement plan for district court judges. The court treated the plan as a unilateral contract, with the state's offer binding subject to completion of performance by the judge serving for the specified time. However, *Sylvestre* was addressed only to a reduction in benefits and had nothing to do with employee contribution levels. More importantly, the court subsequently declined to extend the unilateral contract rationale to other public pension plans, noting that *Sylvestre* "involved the pensions of district court judges, whose office has a constitutional basis and whose compensation cannot be constitutionally reduced during continuance in office." *Christensen*, 331 N.W.2d at 747.

In *Christensen*, the state supreme court for the first time explicitly rejected the general application of gratuity theory to public pension plans. Nevertheless, the court did not apply strict contract principles, nor, as noted, did it apply the unilateral contract theory from *Sylvestre*. Instead, the court adopted a promissory estoppel approach to determine if the employee had acquired any legally enforceable rights. In *Christensen* the necessary facts were present to satisfy the requisite elements for promissory estoppel, and the court held that the legislature could not retroactively change the age at which an employee would qualify for benefits after the employee had already retired and started receiving payments.

In deciding the instant case, the Minnesota court did not deviate from its approach in *Christensen*. Rather, it held that the factual findings upon which the district court panel had found the absence of both a promise and detrimental

reliance were not clearly erroneous and therefore could not be reversed. *AFSCME*, 338 N.W.2d at 568-69 (A-20 to A-24). The court thus determined that the elements of promissory estoppel necessary under Minnesota law had not been established.

Appellants' suggestion that the Minnesota court's decision is in conflict with decisions of other state and federal courts on this issue is irrelevant. The cases from Massachusetts, Connecticut, Delaware, and California cited by appellants, Jur. Stat. at 8, only reflect the fact that the law of other states concerning public employee pension plans has developed differently than has Minnesota's.[4] Appellants have put forth no reason why this Court should now impose some uniform federal standard on this developing area of the law.

In summary, the Minnesota Supreme Court's decision that public employees have no legally enforceable right to a particular level of employee pension contributions is firmly grounded in state statutory law, case law, and the facts established at trial. The decision below was plainly not an attempt to evade constitutional restrictions, but a principled application of the emerging law of public pensions. Accordingly, there is no need for this Court to review that decision to vindicate federal rights.

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[4] Indeed, appellants fail to note that the decision in *Pineman v. Oechslin*, 494 F. Supp. 525 (D. Conn. 1980), in which the federal district court held that Connecticut state law created contractual pension rights for state employees, was vacated by the court of appeals and remanded with instructions to afford the state courts an opportunity to rule on that issue. *Pineman v. Oechslin*, 637 F.2d 601 (2d Cir. 1981).

II. THE MINNESOTA SUPREME COURT PROPERLY REJECTED APPELLANTS' EQUAL PROTECTION CLAIMS.

Appellants also seek this Court's review of the decision below that the Act does not violate the Equal Protection Clause of the Fourteenth Amendment. Appellants do not cite a single United States Supreme Court case or, indeed, a case from any other jurisdiction, in support of their argument that the challenged provisions of the Act violate the Equal Protection Clause. Jur. Stat. at 10-14. Indeed, their argument is nothing more than a quarrel with the state court's determination of the legislature's purpose in requiring the additional employee contributions. This disagreement presents no substantial federal question warranting this Court's review.

The "lenient standard of rationality that this court has traditionally applied in considering equal protection challenges to regulation of economic and commercial matters" first requires a determination of whether the challenged legislation has a legitimate state purpose. *Exxon Corporation v. Eagerton*, —— U.S. ——, ——, 103 S. Ct. 2296, 2308 (1983); *Western & Southern Life Insurance Co. v. State Board of Equalization*, 451 U.S. 648, 668 (1981). The purpose of the Act was clearly articulated by the Legislature in Article I. Jur. Stat. at A-106. The first paragraph of Article I declares that the state is "confronted with a grave economic emergency" and that an immediate increase in state revenue is needed. The second paragraph states that "legislation designed to correct this economic emergency must not create undue economic or social dislocations . . . or jeopardize the financial integrity of state government." Thus, the stated

legislative purpose was to solve the economic crisis in a way that minimized harmful consequences. Appellants argue that the only purpose of the Act is "obvious"—to "provide a source of revenue to the state." Jur. Stat. at 13. The additional stated purpose of the Act—to minimize economic dislocations—is ignored by appellants. This Court has made it clear that "in equal protection analysis, this Court will assume that the objectives articulated by the Legislature are actual purposes of the statute, unless an examination of the circumstances forces us to conclude that they 'could not have been a goal of the legislation.' " *State of Minnesota v. Clover Leaf Creamery Company*, 449 U.S. 456, 463 n. 7 (1981) (citation omitted). The Minnesota Supreme Court correctly determined legislative purpose by consulting the challenged Act. *AFSCME*, 338 N.W.2d 560, 571 n. 14 (A-27 - A-28 n. 14), and appellants offer no reason whatsoever why the stated legislative purpose could not have been a goal of the legislation. There can be no doubt that solving an economic crisis in such a way as to minimize harmful side effects is a legitimate state purpose under the Equal Protection Clause.

The court below also identified a more specific purpose for the particular provisions challenged here. Part of the Legislature's response to the fiscal crisis was to reduce public employer contributions to pension funds. Appellants have neither alleged nor argued that that action was beyond the Legislature's constitutional authority. The Legislature recognized that certain harmful side effects could result. For example, prior reductions in unfunded liabilities of public pension plans had played a prominent role in encouraging favorable credit ratings for the state. It followed that increasing those liabilities by decreasing state contributions might well

erode the state's credit rating. Further, the Legislature was concerned that the reductions in employer contributions to the pension plans might damage the actuarial soundness of the pension plans. Testimony at trial showed that these concerns were not fanciful. *See* Trial Court Findings of Fact XVII, XVIII (A-66); Trial transcript vol. II, pp. 309-10, 313-15 (Testimony of Val Vikmanis). *See also AFSCME*, 338 N.W.2d at 571 n. 15 (A-28 n. 15). Avoiding these potentially adverse results of the unchallenged reduction in employer contributions was an unassailably legitimate goal. Appellants offer neither facts, nor authority, nor reason to the contrary. Rather, they simply label these legitimate concerns an "artifice" and suggest that they should not be relied on by the Court in determining the legislative purpose. Such argument certainly raises no substantial federal question warranting review by this Court.

The only remaining issue under equal protection analysis is determining whether it was "reasonable for the law makers to believe that use of the challenged classification would promote that purpose . . . ." *Western & Southern Life Insurance Co. v. State Board of Equalization*, 451 U.S. 648, 668 (1981). Appellants "cannot prevail so long as 'it is evident from all the considerations presented to [the legislature], and those of which we may take judicial notice, that the question is at least debatable.'" *State of Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 464 (1981) (citation omitted). Since the purpose of the challenged provisions was to avoid potential harmful effects of the temporary reduction in employer contributions to the pension funds, it was eminently logical not to require increased employee contributions to any funds which were not subject to the employer reduction.

Appellants also argue that the court below erred because it did not strike down the challenged law as "a discriminatory tax" on public employees. Jur. Stat. at 12. For sound reasons, the Minnesota Supreme Court determined that the temporary pension contribution increases were not taxes. *AFSCME*, 338 N.W.2d at 573 (A-32 - A-33). But even if this Court were to construe them as taxes, it would be guided in its equal protection analysis by the principle that "[l]egislatures have especially broad latitude in creating classifications and distinctions in tax statutes" because of "the large area of discretion which is needed by a legislature in formulating sound tax policies." *Regan v. Taxation With Representation of Washington*, —— U.S. ——, ——, 103 S. Ct. 1997, 2002 (1983) (citation omitted). Thus, "[t]his Court has repeatedly held that inequalities which result from a singling out of one particular class for taxation or exemption, infringe no constitutional limitation." *Carmichael v. Southern Coal Co.*, 301 U.S. 495, 509 (1937). Construing *arguendo* the employee contribution increase as a tax, it satisfies this standard. One of the purposes, as noted, was to protect the actuarial soundness of the pension funds. Since the fund participants would be the primary beneficiaries of that protection, it was reasonable that they bear the added cost. This is not substantively any different than assessing a user tax, such as a wheelage tax, to require those who benefit most from the roads to bear the major share of the costs for their construction and upkeep.

Finally, appellants point out that the two dissenting opinions in the Minnesota Supreme Court agreed that the increased employee pension contribution is a tax for purposes of constitutional analysis. It should be noted, however, that

both dissenting opinions on the discriminatory taxation issue were based exclusively on the state uniformity clause of the Minnesota Constitution. Justice Yetka, in his dissent stated "I do not address whether it would pass the 'rational basis' test under the federal equal protection clause." *AFSCME*, 338 N.W.2d at 580 (A-47). Justice Kelly in dissent noted that his opinion joining the dissent of Justice Yetka is based on the state uniformity clause. *Id.* at 584 (A-58).

For these reasons, appellants' equal protection argument raises no substantial federal question.

CONCLUSION

The temporary pension contribution increase imposed by challenged provisions of the Act does not impair a contract, deprive appellants of property without due process or violate the rational basis standard this Court traditionally applies to equal protection challenges in economic and commercial matters. Because appellants' arguments raise no substantial federal question, no further consideration by this Court is warranted, and this appeal should be dismissed.

Dated: March 20, 1984

Respectfully submitted,

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APPENDIX

Revelant excerpts from Act of June 8, 1983, ch. 301, 1983 Minn. Laws 1558, 1704-13 (additions indicated by *italics*, deletions by [ALL CAPITAL LETTERS]):

Sec. 224. Laws 1982, Third Special Session chapter 1, article II, section 2, subdivision 1, is amended to read:

* * *

(v) Retirement Contributions ..... (42,213,600)

The amounts that are reduced from the various appropriations are as follows:

(1) State Agencies

(9,781,600)

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before July 1, 1983, employer retirement contributions for the following employees are reduced by four percent of salary: legislators, judges, and constitutional officers, pursuant to Laws 1981, chapter 356, section 48; state employees, pursuant to sections 352.04, subdivision 3; and 352D.04, subdivision 2; correctional employees, pursuant to section 352.92, subdivision 2; highway patrol employees, pursuant to section 352B.02, subdivision 1; and members of the teachers retirement association employed by state agencies, pursuant to section 354.42, subdivisions 3 and 5. The commissioner of finance shall apportion this reduction among the appropriations made to the several state agencies.

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before [JANUARY 1, 1984] *July 1, 1983*, the employee retirement contributions for the following employees are increased by two per-

cent of salary: legislators, pursuant to section 3A.03, subdivision 1; judges, pursuant to sections 490.102, subdivision 8, and 490.123, subdivision 1, except that this clause relating to judges and the companion provision relating to appropriations for employer contributions for judges are expressly declared to be severable from the remaining provisions of this item (1); constitutional officers, pursuant to section 352C.09, subdivision 1; state employees, pursuant to sections 352.04, subdivision 2; and 352D.04, subdivision 2; correctional employees, pursuant to section 352.92, subdivision 1; highway patrol employees, pursuant to section 352B.02, subdivision 1; and members of the teachers retirement association employed by state agencies, pursuant to section 354.42, subdivision 2. These increased employee contributions shall be posted to each individual employee's retirement account.

In addition to the appropriation reduction in this item (1), the commissioner of finance shall reduce allotments for grants-in-aid or other payments from the general fund to state and semi-state agencies that employ members of the Minnesota state retirement system but are not on the state payroll system including, but not limited to, the Minnesota historical society, state horticultural society, Minnesota crop improvement association, and the state agricultural society, to reflect the savings to those agencies as a result of the reduced employer contributions provided in this item (1).

(2) University of Minnesota

(1,512,000)

This reduction is attributable to the decrease in employer retirement contributions required by item (1) for university employees who are members of the Minnesota state retirement system.

This reduction is in the appropriations made to the University of Minnesota in Laws 1981, chapter 359, sections 7 to 10, allocated among the various appropriation accounts by the commissioner of finance.

(3) Metropolitan Agencies

(1,080,000)

This reduction is in the appropriations for public transit made to the metropolitan transit commission in Laws 1981, chapter 363, section 55, subdivision 1, allocated among the various appropriation accounts by the commissioner of finance.

In addition to the appropriation reduction in this item (3), the commissioner of finance shall reduce allotments for homestead credits or other payments from the general fund to the metropolitan council, metropolitan waste control commission, metropolitan sports facilities commission and other metropolitan agencies that employ members of the Minnesota state retirement system to reflect the savings to those agencies as a result of the reduced employer contributions provided in item (1).

(4) Public Employees Retirement Association

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before [JANUARY 1, 1984] *July 1, 1983*, the employee retirement contributions for the following employees are increased by two percent of salary: public employees, pursuant to section 353.27, subdivision 2; and police and firefighters, pursuant to section 353.65, subdivision 2. These increased employee contributions shall be posted to each individual employee's retirement account. [IT IS ESTIMATED THAT THESE INCREASED CONTRIBUTIONS WILL AMOUNT TO $24,440,800 BY JANUARY 1, 1984.]

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before July 1, 1983, upon each credit of employer contributions to the public employees retirement fund and the public employees police and fire fund, a portion of the employer contribution equal to four percent of salary shall be paid from the public employees retirement fund and the public employees police and fire fund to the state treasury and credited to the general fund. It is estimated that these payments will amount to $24,440,800 by July 1, 1983.

(5) Municipal Employees Retirement Fund

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before [JANUARY 1, 1984] *July 1, 1983*, the employee retirement contribution for Minneapolis employees, pursuant to section 422A.10, is increased by two percent of salary. These increased employee contributions shall be posted to each individual employee's retirement account. [IT IS ESTIMATED THAT THESE INCREASED CONTRIBUTIONS WILL AMOUNT TO $1,800,000 BY JANUARY 1, 1984.]

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before July 1, 1983, upon each credit of employer contributions to the municipal employees retirement fund, a portion of the employer contributions equal to four percent of salary shall be paid from the municipal employees retirement fund to the state treasury and credited to the general fund. It is estimated that these payments will amount to $1,800,000 by July 1, 1983.

(6) Local Police and Salaried Firefighters Relief Associations

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before [JANU-

ARY 1, 1984] *July 1, 1983*, the employee retirement contributions for members of local police and salaried firefighters relief associations that receive amortization state aid pursuant to section 423A.02 are increased by two percent of salary. These increased employee contributions shall be posted to each individual employee's retirement account. [IT IS ESTIMATED THAT THESE INCREASED CONTRIBUTIONS WILL AMOUNT TO $1,790,400 BY JANUARY 1, 1984.]

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before July 1, 1983, upon each credit of employer contributions to the local police and salaried firefighters relief association retirement funds, a portion of the employer contribution equal to four percent of salary shall be paid from the retirement funds to the state treasury and credited to the general fund. It is estimated that these payments will amount to $1,790,400 by July 1, 1983.

(7) Teachers Statewide

(26,400,000)

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before July 1, 1983, the employer retirement contribution for teachers employed by political subdivisions, pursuant to section 354.42, subdivisions 3 and 5, shall be reduced by four percent of salary.

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before [JANUARY 1, 1984] *July 1, 1983*, the employee retirement contribution for teachers employed by political subdivisions, pursuant to section 354.42, subdivision 2, shall be increased by two percent of salary. These increased contributions shall be posted to each individual employee's retirement account.

School district teachers on extended leave of absence pursuant to section 125.60 and receiving employer contributions pursuant to section 354.094 and school district teachers teaching part-time pursuant to section 354.66, shall not have their employer contributions reduced or employee contributions increased as provided in this item (7).

(8) Teachers in First Class Cities

(3,440,000)

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before July 1, 1983, the employer retirement contributions for teachers in Duluth, Minneapolis, and St. Paul, pursuant to section 354A.12, subdivision 2, shall be reduced by four percent of salary. The commissioner of finance shall apportion this reduction among the appropriations to the teachers retirement associations in cities of the first class.

Beginning with the first full pay period after December 28, 1982 and ending with the last full pay period before [JANUARY 1, 1984] *July 1, 1983,* the employee retirement contribution for teachers in Duluth, Minneapolis, and St. Paul, pursuant to section 354A.12, subdivision 1, shall be increased by two percent of salary. These increased contributions shall be posted to each individual employee's retirement account.

Teachers on extended leave pursuant to section 125.60 and receiving employer contributions pursuant to section 354A.091 and teachers teaching part-time pursuant to section 354A.094, shall not have their employer contributions reduced or employee contributions increased as provided in this item (8).

(9) Pension Fund Reimbursements

The sum of $8,480,000 is appropriated from the general fund to the commissioner of finance for apportionment to the several pension funds for the following purposes: $5,840,000

to reimburse the funds for any amount by which the increased employee contributions received by [JANUARY 1, 1984] *July 1, 1983* are less than the reduced employer contributions received by July 1, 1983; $2,000,000 to reimburse the funds for the loss of investment income they suffer, as determined by the commissioner of finance, because the reduced employer contributions received by July 1, 1983 are not matched by increased employee contributions [UNTIL JANUARY 1, 1984]; and $640,000 to fund increased contribution refunds due to the increased employee contributions required by this section. This appropriation is available until June 30, 1984.

(10) Notwithstanding Laws 1982, chapter 641, article I, section 2, subdivision 1, paragraph (i), item (1), the increase in contribution rates required by that item shall be adjusted to reflect the changes in contribution rates required by this section.

Sec. 225. REIMBURSEMENT OF EXCESS PENSION CONTRIBUTIONS.

Subdivision 1. **REIMBURSEMENT REQUIRED.** ***Any public employee or official who retires from January 1, 1983 to June 30, 1985, and whose pension contributions were increased by Laws 1982, Third Special Session chapter 1, article 2, section 2, subdivision 1, paragraph (v), must be reimbursed for the amount of increased contributions paid by the official or employee because of that law. Reimbursement must be in a lump sum to the employee or official, or his or her survivor, at the same time as the first annuity payment. The amount of the reimbursement is the amount that the employee's or official's contribution increased because of Laws 1982, Third Special Session chapter 1, article 2, section 2, subdivision 1, paragraph (v) plus interest at the then current rate paid on refunds by***

the relief or retirement association. Reimbursement shall be ***paid by the retirement or relief association to which the em-*** *ployee belongs.*

Subd. 2. **STATE PAYMENTS TO RETIREMENT ASSOCIATIONS.** *In the first month of each fiscal year, each retirement or relief association shall submit to the commissioner of finance a statement of the amount of reimbursements that the retirement or relief association paid under subdivision 1 in the prior January 1 to December 31 calendar year. The commissioner of finance shall then pay to the retirement or relief association the amount indicated in the statement.*

Sec. 226. REIMBURSEMENT OF EXCESS PENSION CONTRIBUTIONS; STATE UNCLASSIFIED EMPLOYEES RETIREMENT PROGRAM.

Subdivision 1. **REIMBURSEMENT REQUIRED.** *From January 1, 1983 to June 30, 1985, any participant in the state unclassified employees retirement program whose pension contributions were increased by Laws 1982, Third Special Session chapter 1, article 2, section 2, subdivision 1, paragraph (v), must be reimbursed for the amount of increased contributions paid by the participant because of that law. Reimbursement must be in a lump sum to the participant at the time of withdrawal, or to the participant, or his or her survivor, at the same time as the first annuity payment. The amount of the reimbursement is the amount that the participant's contributions increased because of Laws 1982, Third Special Session chapter 1, article 2, section 2, subdivision 1, paragraph (v) plus interest at the average rate of return on fixed return investments for the immediately preceding five-year period. Reimbursement shall be paid by the Minnesota state retirement system.*

Subd. 2. **STATE PAYMENTS TO RETIREMENT SYSTEM.** *In the first month of each fiscal year, the Minnesota state retirement system shall submit to the commissioner of finance a statement of the amount of reimbursements that the Minnesota state retirement system paid under subdivision 1 in the prior January 1 to December 31 calendar year. The commissioner of finance shall then pay to the Minnesota state retirement system the amount indicated in the statement.*

Sec. 227. FUTURE REVIEW.

The legislature at the session in 1984 will review any adverse consequences of the repeal of the increased employee pension contribution rates provided for in this act.

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